



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
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Washington, DC 2023

March 26, 2003

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In re application of:  
Aboul-Hosn      **DECISION ON PETITION**  
Serial No.: 09/669,104  
Filed: September 25, 2000  
For: **SINGLE PORT CARDIAC SUPPORT APPARATUS**

This is a decision on the petition received on October 22, 2002, to withdraw the holding of abandonment in the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R. 1.113 in timely manner to the Notice to File Missing Parts of Application mailed November 29, 2000. Which set a shortened statutory period for reply of two (2) months. Accordingly, this application became abandoned January 30, 2001. The notice of abandonment was mailed August 21, 2002.

On October 22, 2002, the office received a communication from the attorney not of record. Enclosed was an acknowledgment that the attorney who filed the application had completed all the requirements at filing.

The evidence submitted is sufficient to establish that the petitioners requested the fees charged to Deposit Account 50-1026. The Deposit Account had insufficient funds available.

The petition is hereby **DISMISSED**.

The power of attorney for the new attorney has not been received in the office. All correspondence will be designated to the address in the application at the time of filing.

Petitioner(s) may wish to consider filing a petition to the Commissioner under 37 CFR 1.137(a or (b) requesting that the application be revived.

Under 37 CFR 1.137(a), a petition requesting that the application be revived on the grounds of unavoidable delay must be accompanied by: (1) the required reply (unless previously filed), which may be met by the filing of a continuing

application in a non provisional application abandoned for failure to prosecute (2) the \$110 petition fee required by 37 CFR 1.17(l) (\$55 if petitioner has

established small entity status); (3) an adequate showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d) in a design application, a utility application filed before June 8, 1995, or a plant application filed before June 8, 1995.

Under 37 CFR 1.137(b), a petition requesting that the application be revived on the grounds of unintentional delay must be accompanied by: (1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute; (2) the \$1210 petition fee required by 37 CFR 1.17(l) (\$605 if petitioner has established small entity status); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d) in a design application, a utility application filed before June 8, 1995, or a plant application filed before June 8, 1995.

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

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The applicant may direct further correspondence regarding this application to:

Box DAC  
Office of Petitions  
Assistant Commissioner for Patents  
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